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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,782	11/20/2003	Martin Joseph Crippen	RPS920020184US1	8390
36491	7590	05/04/2004	EXAMINER	
KUNZLER & ASSOCIATES 8 EAST BROADWAY SALT LAKE CITY, UT 84111			BOLES, DEREK	
			ART UNIT	PAPER NUMBER
			3749	
DATE MAILED: 05/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/717,782

Applicant(s)

CRIPPEN ET AL.

Examiner

Derek S. Boles

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 recites the limitation "the seal" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: Claim 19 recites moving air through an orifice and blocking air at the orifice.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, 10-12, 14, 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by IBM TDB (NN950835). See entire document. Regarding claims 2 and 10, see 6.

### ***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim(s) 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over IBM TDB in view of Fujimura (5,963,528). IBM TDB discloses all of the limitations of the claim(s) except for the spring being a torsion spring. Fujimura discloses the presence of a torsion spring. See col. 5, lines 9-39. Hence, one skilled in the art would find it obvious to modify the system of IBM TDB to include the torsion spring of Fujimura for the purpose of more precise actuation.

Claim(s) 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over IBM TDB in view of Amori (5,646,823). IBM TDB discloses all of the limitations of the claim(s) except for a seal being comprised of a layer of elastomeric material. Amori discloses the presence of a seal being comprised of a layer of elastomeric material. See col. 3, lines 9-34. Hence, one skilled in the art would find it obvious to modify the system of IBM TDB to include the seal being comprised of a layer of elastomeric material of Amori for the purpose of improved airflow blockage.

IBM TDB discloses all of the limitations of the claim except for the orifice cover being a plate. However, since the applicant has failed to establish any criticality or synergistic results which are derived from the recited configurations, these limitations are considered a matter of obvious design choice. Thus, the applicant's design configurations would have been an obvious improvement to one of ordinary skill in the art with regard to the apparatus disclosed in IBM TDB.

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Claims 8, 9, 17, 18 rejected under 35 U.S.C. 103(a) as being unpatentable over IBM TDB. It is well-known in the art of HVAC to design an enclosure being configured for positive/negative air pressure and having the ability to either force air into enclosure or exhaust air. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the features of an enclosure being configured for positive/negative air pressure and having the ability to either force air into enclosure or exhaust air into the system of IBM TDB for the purpose of increased heat dissipation.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The provided references are representative of the state of the art that is applicable to the applicant's invention. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Boles at (703) 308-1804 or fax number (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The Supervisory Primary Examiner for Art Unit 3749 is Ira Lazarus who can be reached at (703) 308-1935.

D.S.B.

  
**DEREK S. BOLES**  
**PRIMARY EXAMINER**  
**GROUP 3700**

4/24/04